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CAMERON INTERNATIONAL CORPORATION
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In re Application of :
PARKINSON, David :
Application No.: 10/553,080 : DECISION ON
PCT No.: PCT/GB04/01351 :
Int. Filing Date: 31 March 2004 : PETITION UNDER
Priority Date: 10 April 2003 :
Attorney Docket No.: DPS-030807 PET-1013US : 37 CFR 1.47(b)
For: FILTRATION APPARATUS :

This is a decision on applicant's Petition Under 37 CFR 1.47(b), filed in the United States Patent and Trademark Office (USPTO) on 05 September 2006.

BACKGROUND

On 31 March 2004, applicant filed international application PCT/GB04/01351, claiming a priority date of 26 July 2002. A copy of the international application was transmitted to the Office on 21 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 October 2005 (10 October 2005 was a holiday).

On 11 October 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 07 June 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 05 September 2006, applicant submitted a petition under 37 CFR 1.47(b) accompanied by the fee for a one month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3) and (6) have been met. (1) The balance of the \$200 petition fee will be charged to the deposit account no. 13-0100, as authorized. (3) Applicant states the last known mailing address of Mr. David Parkinson as Arodene, Walton-in-Gordano; Clevedon, North Somerset BS21 7AR; United Kingdom. (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has not been satisfied. Applicant claims that Mr. Parkinson has refused to execute the declaration, but have not provided proof that Mr. Parkinson was presented with a complete copy of the application papers and has refused to sign. Mr. Ziar does not indicate that the application was included with the papers forwarded to the inventor. Copies of documentary evidence indicating that the inventor received a complete copy of the application papers should be included. Further, applicant may have created some confusion as to what is required of the inventor. MPEP 409.03(d). Only a signed declaration of the inventor is required for applicant to enter the national phase. Applicant sent Mr. Parkinson an assignment to KCC, to sign. Mr. Parkinson appears unaware of the sale of assets to KCC or uncomfortable signing an assignment to a company for whom he did not work. He is not clearly refusing to sign a declaration of inventorship.

Item (4) has not been satisfied. The declaration is defective in several respects. First, the §1001 clause is incomplete and its presence with the inventor biographical data makes it unclear what is being executed. Merely stating what follows "I, Manish B. Vyas, hereby declare ..." is not sufficient. The 37 CFR 1.47(b) applicant is required to state everything that the inventor would have to state. Additionally, the declaration seems to indicate that the property interest is vested in Vyas personally rather than in the assignee for whom Vyas is empowered to act. Finally, as Vyas is empowered to act by KCC Group, who is apparently the assignee, it is unclear why Vyas is indicated as representing Cameron International Corporation.

Item (5) has not been met. The legal memorandum relies on an employment agreement executed by Mr. Parkinson, but that employment agreement has not been included with this submission. Further, the submission lacks a statement of someone with firsthand knowledge that this invention was made by Mr. Parkinson, while employed by DPS. Mr. Parkinson comes close, but he does not specifically indicate that "Filtration Apparatus" was made while employed by DPS.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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